

AMENDED IN ASSEMBLY APRIL 14, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 2152

Introduced by Assembly Member Nielsen

February 18, 2010

~~An act to amend Section 12807 of the Penal Code, relating to firearms.~~ *An act to add Sections 3053.3 and 3060.8 to the Penal Code, relating to parole.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2152, as amended, Nielsen. ~~Firearms: handgun safety certificates: exceptions.~~ *Parole: conditions.*

(1) Existing law establishes the Board of Parole Hearings in the Department of Corrections and Rehabilitation and grants it the power to establish rules and regulations under which persons committed to state prison may be allowed to go upon parole outside the prison buildings and enclosures when eligible for parole. Existing law grants the board the power to impose on the parole of a prisoner any conditions that it may deem proper.

This bill would require the board, when granting parole to a prisoner, to inquire into whether the person is a member or associate of any prison gang or criminal street gang, as defined. If the person is a verified member or associate, this bill would require the board to impose a condition on the prisoner's parole prohibiting the prisoner from participating, promoting, furthering, or assisting in any gang, from associating with any gang member, from wearing any gang colors, signs, symbols, or paraphernalia associated with gang activity, and from violating any gang abatement injunction, ordinance, or court order. This bill would provide that a person is verified as a member or

associate of a gang if the person is identified as being a member or associate of a gang by the Department of Corrections and Rehabilitation, the Department of Justice, or any local law enforcement agency.

(2) Existing law establishes the Division of Adult Parole Operations within the Department of Corrections and Rehabilitation. Under existing law the revocation of parole is determined by the Board of Parole Hearings. Existing law prohibits the department from reporting any parole violation to the board for certain parolees.

This bill would require the division to report to the board any conduct on the part of a parolee that constitutes a serious or violent felony, any assaultive conduct resulting in serious injury to the victim, the possession of specified weapons or narcotics, violations of conditions of parole, and other conduct, as specified. This bill would require the division to report to the board any conduct on the part of a parolee who was committed to prison for a serious or violent felony any criminal conduct, including felonies, misdemeanors, or infractions, and any parole violations.

~~Existing law, subject to exceptions, makes it a misdemeanor to purchase or receive a handgun without a handgun safety certificate, or to sell, deliver, or transfer a handgun to any person who does not have a handgun safety certificate. Existing law excepts various persons from the handgun safety certificate requirements, including active members and honorably retired members of the Armed Forces, as specified.~~

~~This bill would additionally except honorably discharged members of the United States Armed Forces, the National Guard, the Air National Guard, and the active reserve components of the United States, as specified, from the handgun safety certificate requirements.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 3053.3 is added to the Penal Code, to
- 2 read:
- 3 3053.3. (a) Upon granting parole to any prisoner, the Board
- 4 of Parole Hearings shall inquire into whether the prisoner is a
- 5 member or associate of any prison gang or criminal street gang.
- 6 If the prisoner is verified as a member or associate of any prison
- 7 gang or criminal street gang, or if the prisoner is required to

1 register pursuant to Section 186.30, the board shall impose all of
2 the following conditions on the parole of that prisoner:

3 (1) That the prisoner shall not participate in, promote, further,
4 or assist in any prison gang or criminal gang activity.

5 (2) That the prisoner shall not associate with any member of a
6 prison gang or street gang.

7 (3) That the prisoner shall not wear or carry on his or her
8 person any gang colors or any sign, symbol, or paraphernalia
9 associated with gang activity.

10 (4) That the prisoner shall not violate any gang abatement
11 injunction, ordinance, or court order.

12 (b) A prisoner is verified as a member or associate of a prison
13 gang or criminal street gang if that person is identified as a
14 member or associate of a prison gang or criminal street gang by
15 the Department of Corrections and Rehabilitation, the Department
16 of Justice, or by any local law enforcement agency.

17 (c) For purposes of this section, the following terms have the
18 following meanings:

19 (1) "Criminal street gang" is synonymous with "criminal gang"
20 and "street gang" and has the same meaning as in Section 186.22.

21 (2) "Prison gang" means any gang which originated and has
22 its roots within the prison system of the Department of Corrections
23 and Rehabilitation or any other prison system.

24 SEC. 2. Section 3060.8 is added to the Penal Code, to read:

25 3060.8. (a) The Department of Corrections and Rehabilitation,
26 Division of Adult Parole Operations, shall report to the Board of
27 Parole Hearings any parolee who is suspected of having engaged
28 in any of the following kinds of behavior:

29 (1) Any conduct described in subdivision (c) of Section 667.5.

30 (2) Any conduct described in subdivision (c) of Section 1192.7.

31 (3) Any assaultive conduct resulting in serious injury to the
32 victim.

33 (4) Possession, control, use of, or access to, any firearm,
34 explosive, or crossbow, or possession or use of any weapon
35 specified in subdivision (a) of Section 12020, or any knife having
36 a blade longer than two inches, except kitchen knives kept solely
37 in the parolee's residence or knives related to the parolee's
38 employment used exclusively in connection with the parolee's
39 employment.

1 (5) *Involvement in any fraudulent scheme or schemes involving*
2 *more than one thousand dollars (\$1,000).*

3 (6) *Sale, transportation, or distribution of any narcotic or other*
4 *controlled substance as defined in Division 10 (commencing with*
5 *Section 11000) of the Health and Safety Code.*

6 (7) *A parolee whose whereabouts are unknown and who has*
7 *been unavailable for contact for 30 days or more.*

8 (8) *Any other conduct or pattern of conduct in violation of the*
9 *conditions of parole deemed sufficiently serious by division staff,*
10 *including repetitive parole violations and escalating criminal*
11 *conduct.*

12 (9) *The failure to register pursuant to Section 290 if the person*
13 *is required to register.*

14 (10) *The refusal to sign any form required by the Department*
15 *of Justice explaining the duty of the person to register under*
16 *Section 290.*

17 (11) *The failure to provide two blood specimens, a saliva*
18 *sample, right thumb impressions, and full palm impressions of*
19 *each hand, as required by Chapter 6 (commencing with Section*
20 *295) of Title 9 of Part 1.*

21 (12) *The failure to sign conditions of parole.*

22 (13) *Violation of a special condition prohibiting any active*
23 *participation or assistance in, or promotion or furtherance of,*
24 *prison gang or criminal street gang activity, if that condition was*
25 *imposed.*

26 (14) *Violation of a special condition prohibiting any association*
27 *with any member of a prison gang or criminal street gang, or the*
28 *wearing or displaying of any gang colors, signs, symbols, or*
29 *paraphernalia associated with gang activity, if that condition was*
30 *imposed.*

31 (15) *Violation of the special condition requiring compliance*
32 *with any gang abatement injunction, ordinance, or court order, if*
33 *that condition was imposed.*

34 (16) *Conduct indicating that the parolee's mental condition has*
35 *deteriorated to the point that the parolee is likely to engage in*
36 *future criminal behavior.*

37 (b) *In addition to the conduct specified in subdivision (a), for*
38 *any parolee whose commitment offense is described in subdivision*
39 *(c) of Section 667.5 or subdivision (c) of Section 1192.7, the*
40 *division shall report to the board any parolee who has engaged*

1 *in any criminal conduct or who has violated any condition of*
2 *parole. For purposes of this subdivision, criminal conduct means*
3 *conduct constituting a felony, misdemeanor, or infraction under*
4 *federal, state, or county law.*

5 SECTION 1. ~~Section 12807 of the Penal Code is amended to~~
6 ~~read:~~

7 ~~12807. (a) The following persons, properly identified, are~~
8 ~~exempted from the handgun safety certificate requirement in~~
9 ~~subdivision (b) of Section 12801:~~

10 ~~(1) Any active or honorably retired peace officer, as defined in~~
11 ~~Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2.~~

12 ~~(2) Any active or honorably retired federal officer or law~~
13 ~~enforcement agent.~~

14 ~~(3) Any reserve peace officer, as defined in Section 832.6.~~

15 ~~(4) Any person who has successfully completed the course of~~
16 ~~training specified in Section 832.~~

17 ~~(5) A firearms dealer licensed pursuant to Section 12071, who~~
18 ~~is acting in the course and scope of his or her activities as a person~~
19 ~~licensed pursuant to Section 12071.~~

20 ~~(6) A federally licensed collector who is acquiring or being~~
21 ~~loaned a handgun that is a curio or relic, as defined in Section~~
22 ~~478.11 of Title 27 of the Code of Federal Regulations, who has a~~
23 ~~current certificate of eligibility issued to him or her by the~~
24 ~~department pursuant to Section 12071.~~

25 ~~(7) A person to whom a handgun is being returned, where the~~
26 ~~person receiving the firearm is the owner of the firearm.~~

27 ~~(8) A family member of a peace officer or deputy sheriff from~~
28 ~~a local agency who receives a firearm pursuant to Section 50081~~
29 ~~of the Government Code.~~

30 ~~(9) Any individual who has a valid concealed weapons permit~~
31 ~~issued pursuant to Section 12050.~~

32 ~~(10) An active, or honorably retired member, or honorably~~
33 ~~discharged member, of the United States Armed Forces, the~~
34 ~~National Guard, the Air National Guard, or the active reserve~~
35 ~~components of the United States, where individuals in those~~
36 ~~organizations are properly identified. For purposes of this section,~~
37 ~~proper identification includes the Armed Forces Identification~~
38 ~~Card, or other written documentation certifying that the individual~~
39 ~~is an active, or honorably retired member, or honorably discharged~~
40 ~~member.~~

1 ~~(11) Any person who is authorized to carry loaded firearms~~
2 ~~pursuant to subdivision (c) or (d) of Section 12031.~~

3 ~~(12) Persons who are the holders of a special weapons permit~~
4 ~~issued by the department pursuant to Section 12095, 12230, 12250,~~
5 ~~or 12305.~~

6 ~~(b) The following persons who take title or possession of a~~
7 ~~handgun by operation of law in a representative capacity, until or~~
8 ~~unless they transfer title ownership of the handgun to themselves~~
9 ~~in a personal capacity, are exempted from the handgun safety~~
10 ~~certificate requirement in subdivision (b) of Section 12801:~~

11 ~~(1) The executor or administrator of an estate.~~

12 ~~(2) A secured creditor or an agent or employee thereof when~~
13 ~~the firearms are possessed as collateral for, or as a result of, or an~~
14 ~~agent or employee thereof when the firearms are possessed as~~
15 ~~collateral for, or as a result of, a default under a security agreement~~
16 ~~under the Commercial Code.~~

17 ~~(3) A levying officer, as defined in Section 481.140, 511.060,~~
18 ~~or 680.260 of the Code of Civil Procedure.~~

19 ~~(4) A receiver performing his or her functions as a receiver.~~

20 ~~(5) A trustee in bankruptcy performing his or her duties.~~

21 ~~(6) An assignee for the benefit of creditors performing his or~~
22 ~~her functions as an assignee.~~